

SPECIAL EDUCATION LAWS IN MONTANA

Pupils

- A child with a disability is entitled to a free appropriate public education provided in the least restrictive environment. ([20-7-401](#); [20-7-411](#))
- Child with a disability: having an identified disability and needing special education and related services because of that disability. ([20-7-401](#))
- Free appropriate public education (FAPE): special education and related services provided at public expense under public supervision without charge, that meets the various requirements of BPE, SPI, and IDEA, and is provided in conformity with an individualized education program (IEP). ([20-7-401](#))
- To the maximum extent appropriate, a child with a disability must be educated with children who do not have disabilities. ([20-7-411](#))
- A child's district of residence is determined under the general residency law, and is generally the parents' residence. ([20-7-420](#); [1-1-215](#))

Districts

- A district is responsible for determining children in need of special education and the type of special education needed. ([20-7-414](#))
- Every district must have a special education program for 5-18 year old students and every elementary district must have a special education preschool program for 3-6 year-olds. ([20-7-411](#))
- A school district may establish programs for 0-2 year-olds and/or 19-21 year-olds, and establishing a program doesn't require a regular education program for those ages unless specifically provided by law. ([20-7-411](#))
- A district that provides special education services for children under 6 may include costs for the allowable cost payment and transportation costs ([20-7-443](#))
- Each district must adopt policies and procedures consistent with IDEA, state law, and BPE and SPI policies. ([20-7-414](#))

Superintendent of Public Instruction (SPI)

- SPI is responsible for supervising and coordinating special education. Statutory duties include:
 - recommending policies to BPE and administering adopted policies
 - technical assistance to districts
 - certifying special education teachers
 - assistance developing full-service programs for a child with a disability
 - ensuring IDEA requirements are met and IEPs meet all applicable education standards. ([20-7-403](#))
- SPI has broad statutory authority to adopt rules to implement BPE policies, set tuition rates, and calculate the amount of matching funds required from the local district and subtracts any unmatched funds from the next year's payment to the district. ([20-7-402](#); [20-7-419](#); [20-9-321](#))

Board of Public Education (BPE)

- BPE adopts policies based on SPI recommendations. Required policies include:
 - placement in the least restrictive environment
 - due process for a child with a disability
 - use of an evaluation team to identify eligible children and plan IEPs
 - an evaluation process consistent with IDEA requirements
 - other policies necessary to ensure FAPE. ([20-7-402](#))
- BPE must adopt a policy to guide the SPI's final approval authority over special education cooperative contracts. ([20-7-454](#))

Cooperatives

- Joint board of trustees for special education may be formed by the trustees of two or more districts. Statute provides voting rules and gives the joint board the authority to provide programs a single board may provide, including joint provision of special education services. ([20-3-361](#); [20-3-362](#))
- Two or more boards may enter into multidistrict cooperatives to perform any services and activities of the participating districts. ([20-3-363](#))
- Full service education cooperatives perform any or all education administrative services a member district is authorized to perform. SPI must pay a special education cooperative directly for certain elements of the allowable cost payment. ([20-7-451](#)– [20-7-457](#))
- Title 20, Ch. 9, Part 7 provides for educational cooperative agreements. ([20-9-701](#) – [20-9-707](#))
- SPI defines the boundaries for up to 23 co-ops. ([20-7-457](#))
- Co-ops are eligible for quality educator payments. ([20-9-327](#))

Costs/Funding

- The special education allowable cost payment is distributed through instructional block grants, related services block grants, disproportionate cost reimbursements, and for administrative and travel costs to the co-ops. ([20-9-321](#))
- Districts must account for their costs annually. Allowable costs include costs for instruction (salaries/benefits for teachers and aides; teaching supplies and textbooks; travel costs for itinerant instructional personnel) and costs for related services (salaries/benefits for professional supportive personnel such as audiologists and counselors and for clerical personnel; supplies). ([20-7-431](#))
- Tuition for a child with a disability attending school outside of the child's district of residence is set by rule by SPI. ([20-5-323](#))
- The tuition levy may also be used to pay for the full costs of providing FAPE in-district, but is limited to the actual costs of the IEP minus certain state and federal payments. ([20-5-324](#))
- Transportation may be charged to the district of residence at a rate of the lesser of the average transportation cost per student in the child's district of residence or 35¢ per mile. Funds may be levied through the transportation levy. ([20-5-323](#); [20-5-324](#); [20-10-144](#))